

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

## CALVIN HATTEN,

**Defendant.**

**CASE NO. 8:10CR271**

## TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 43).<sup>1</sup> The government adopted the PSR (Filing No. 44). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to drug quantity, references to his alleged gang affiliation, and a prior conviction in ¶ 52. The parties reached a Rule 11(c)(1)(C) plea agreement for a 120-month term of imprisonment.

The objection to drug quantity has no bearing either on the base offense level or the ultimate sentence, given the Rule 11(c)(1)(C) agreement. The prior conviction in ¶ 52 resulted in zero criminal history points. The references to gang affiliation are denied for the reasons stated in the Addendum. The Defendant's request to present oral testimony at sentencing is denied.

<sup>1</sup>The Defendant's objections were erroneously filed as an "adoption" of the PSR.

IT IS ORDERED:

1. The Defendant's objections to the PSR and his request to present oral testimony at sentencing (Filing No. 43) are denied;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and
4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 3<sup>rd</sup> day of March, 2011.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge